

TITLE XIV.

Public Instruction.

CHAPTER 115

STATE SUPERINTENDENT; GENERAL CLASSIFICATIONS AND DEFINITIONS; HANDICAPPED CHILDREN

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SUBCHAPTER I

GENERAL CLASSIFICATIONS AND DEFINITIONS

115.01 Classifications and definitions. In this title:

(1) **PUBLIC SCHOOLS.** Public schools are the elementary and high schools supported by public taxation.

(2) **GRADES.** The educational work of the public schools is divided into 12 grades, besides kindergarten, which are numbered from one to

12 beginning with the lowest. The first 8 grades are the elementary grades. Where reference is made to "elementary grades," the reference includes kindergarten, where applicable. The last 4 grades are the high school grades. A junior high school is a school in which only grades 7 to 9 or grades 7 to 10 are taught. A senior high school is a school in which only grades 10 to 12 are taught. This classification is not a limitation of the character of work or the studies that may be carried on in either the elementary or the high schools.

(3) SCHOOL DISTRICTS. The school district is the territorial unit for school administration. School districts are classed as common school districts, union high school districts, unified school districts, city school districts and school systems organized pursuant to ch. 119. A joint school district is a school district whose territory is not wholly in one municipality.

(4) SCHOOL BOARD. "School board" means the school board or board of education in charge of the schools of a school district.

(5) NAME. Each school district shall be known by number and by the name of the municipality or municipalities in which it lies.

(6) SCHOOL YEAR. "School year" means the time commencing with July 1 and ending with the next succeeding June 30.

(7) SCHOOL TERM. "School term" means the time commencing with the first school day and ending with the last school day that the schools of a school district are in operation for attendance of pupils in a school year, other than for the operation of summer classes.

(8) SESSION. "Session" means the time during a school term that the schools of a school district are operated for the attendance of pupils.

(9) SCHOOL MONTH. Twenty school days constitute a school month.

(10) SCHOOL DAY. (a) School days are days on which school is actually taught and the following days on which school is not taught:

1. Labor Day, Thanksgiving, Christmas, New Year's Day and Memorial Day, if within the scheduled school term and not within a scheduled vacation period.

2. Days on which state teachers' conventions are held.

3. Days on which school is closed by order of a health officer.

(b) Not to exceed 5 Saturdays may be counted as school days in any school year when school is taught thereon with the consent of the school board.

(11) SCHOOL DISTRICT ADMINISTRATOR. "School district administrator" means the school district superintendent, supervising principal or other person who acts as the administrative head of a school district and who holds an administrator's license.

(12) DISTANCE. The distance between home and school shall be measured from building to building along the usually traveled route.

(13) ELECTORS. (a) Whenever an action may be taken by a percentage of electors in an area, that percentage shall be based on the number of electors who voted for governor at the last general election in that area.

(b) If the area does not coincide with a municipality or part thereof for which election

statistics are kept, the number of electors shall be determined as follows:

1. The area of the school district in square miles shall be divided by the area of the municipality in square miles in which it lies.

2. The vote for governor at the last general election in the municipality within which the school district lies shall be multiplied by the quotient determined under subd. 1 to determine the required number of electors.

(c) If a school district is in more than one municipality, the method of determination under par. (b) shall be used for each part of the school district which constitutes only a fractional part of any area for which election statistics are kept.

(14) REORGANIZE, REORGANIZATION OR REORGANIZING. "Reorganize," "reorganization" or "reorganizing," as applied to school districts, mean any alteration, dissolution, consolidation or creation of a school district.

(15) REORGANIZED SCHOOL DISTRICT OR PROPOSED REORGANIZED SCHOOL DISTRICT. "Reorganized school district" or "proposed reorganized school district" means:

(a) When an order or proposed order attaches territory to a school district, only the territory in the school district to which the territory is attached or proposed to be attached and the territory attached thereto by such order or proposed order.

(b) When an order or proposed order consolidates the territory of 2 or more school districts, only the territory so consolidated by such order or proposed order.

(c) When an order or proposed order creates a new school district or proposed new school district, only the territory comprising such new school district or proposed new school district.

(d) In no instance, the territory remaining in any school district from which territory is detached by an order or proposed order.

(16) REORGANIZATION AUTHORITY. "Reorganization authority" means any officer, committee, agency, school board, electors, state appeal board or any group or combination thereof which is empowered by law to authorize or make orders of school district reorganization.

(17) SCHOOL DISTRICT AFFECTED. "School district affected" means the entire territory of any school district:

(a) From which any territory is detached.

(b) To which any territory is attached.

(c) Any territory of which is included in a newly created school district.

(d) Any territory of which is included in any consolidation.

(18) CITY, VILLAGE OR TOWN AFFECTED. "City, village or town affected" means any city,

village or town which has lying within it all or part of a school district affected.

(19) SCHOOL DISTRICT CLERK. "School district clerk" means the school district clerk of a 3-member school board elected by the electors in a common or union high school district and the school district clerk elected by the school board in a unified school district, in a city school district and in a common or union high school district having a school board of more than 3 members.

(20) DEPARTMENT. "Department" means the department of public instruction.

History: 1973 c. 90.

See note to 111.70, citing Bd of Education v WERC, 52 W (2d) 625, 191 NW (2d) 242.

SUBCHAPTER II

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

115.28 General duties. The state superintendent shall:

(1) GENERAL SUPERVISION. Ascertain the condition of the public schools, stimulate interest in education and spread as widely as possible a knowledge of the means and methods which may be employed to improve the schools.

(2) SECTARIANISM. Exclude all sectarian books and instruction from the public schools.

(3) SUPERVISION OF SCHOOLS. Supervise and inspect the public schools, county teachers colleges and day schools for handicapped children, advise the principals and local authorities thereof and give assistance in organizing such schools.

(4) PUBLIC INFORMATION. By reports, bulletins, circulars, correspondence and public addresses, give the public information upon the different methods of school organization and management and the subject of education generally.

(5) APPEALS. Examine and determine all appeals which by law are made to him and prescribe rules of practice in respect thereto, not inconsistent with law.

(6) ANNUAL CONVENTIONS. Annually, hold conventions of school district administrators, supervisors and agency co-ordinators.

(7) LICENSING AND CERTIFICATION OF TEACHERS, ETC. (a) License or certify all teachers for the public schools of the state, make rules and prescribe standards of attainment for the examination, licensing and certification of teachers within the limits prescribed in ss. 118.19 (2) and (3) and 118.195, file in his office all papers relating to state teachers' licenses and certificates and register each such license or certificate.

(b) Subject to the same rules and laws concerning qualifications of applicants and granting and revocation of licenses or certificates under par. (a), the state superintendent shall grant certificates and licenses to teachers in private schools, except that teaching experience requirements for such certificates and licenses may be fulfilled by teaching experience in either public or private schools. An applicant is not eligible for a license or certificate unless the state superintendent finds that the private school in which the applicant taught offered an adequate educational program during the period of the applicant's teaching therein. Private schools are not obligated to employ only licensed or certified teachers.

(c) License, certify and make rules and prescribe standards of attainment for the examination, licensing and certification of persons, including teachers, employed by special education programs as defined in s. 115.76 (10).

(8) ADMISSIONS TO FIRST GRADE. Prescribe procedures, conditions and standards under which admissions to first grade may be made at an age earlier than that specified in s. 118.14 in exceptional cases.

(9) FEDERAL AIDS. Accept federal funds for any function over which the state superintendent has jurisdiction and act as the agent for the receipt and disbursement of such funds.

(10) EDUCATIONAL ASSESSMENT. Develop an educational assessment program to measure objectively the adequacy and efficiency of educational programs offered by public schools in this state. The program shall include, without limitation because of enumeration, methods by which pupil achievement in fundamental course areas, as set forth in s. 118.01 (1), and other areas of instruction commonly offered by public schools, will be objectively measured each year. Assessment shall be undertaken at several grade levels on a uniform, state-wide basis.

(11) STATE AID BUDGET CALCULATIONS. In preparing the biennial budget request of the department, calculate the amounts of general state aid which are needed by multiplying the estimated current equalized valuation of the state by an appropriate mill rate and subtracting that amount from the estimated statewide shared costs.

History: 1971 c. 40, 125; 1973 c. 89, 90

115.29 General powers. The state superintendent may:

(1) DESIGNATE REPRESENTATIVE. Designate the deputy state superintendent or another employe of the department as his representative on any body on which the state superintendent is required to serve, except the board of regents of the university of Wisconsin system.

(2) **EDUCATIONAL MEETINGS.** Attend such educational meetings and make such investigations as he deems important and as will acquaint him with the different systems of public schools in the United States.

(3) **NONPROFESSIONAL EMPLOYES.** By order, establish classes of nonprofessional school employes and authorize their employment in the instructional program of the elementary and high schools for specific purposes and their reimbursement from the instructional budget. Such employes shall not be covered under ch. 42 or ss. 118.21 to 118.23 or 121.17 (2) or (3) but shall be eligible under the Wisconsin retirement fund if it is made applicable to the school district employing them.

(4) **HIGH SCHOOL GRADUATION EQUIVALENCY.** Grant declarations of equivalency of high school graduation to persons, if in his judgment they have presented satisfactory evidence of having completed a recognized high school course of study or its equivalent. He may establish the standards by which high school graduation equivalency is determined. Such standards may consist of evidence of high school courses completed in high schools recognized by the proper authorities as accredited, results of examinations given by or at the request of the state superintendent, successful completion of correspondence study courses given by acceptable correspondence study schools, a general educational development certificate of high school equivalency issued by the U.S. armed forces institute, course credits received in schools meeting the approval of the state superintendent or other standards established by him.

History: 1971 c. 100 s. 23; 1971 c. 125, 211.

115.30 Forms and reports. (1) The department shall prepare for the use of school officers suitable forms for making reports, and suitable outlines as aids in conducting school meetings. School district officers and employes shall make such reports to the department as will enable it to distribute state school fund appropriations and state educational appropriations to the schools and persons entitled thereto, and to properly discharge the other duties of the department.

(2) The department may require all school boards to report to it, on forms provided, the name of the school and its location, the name and address of the teachers, the number of months of school maintained during the year, the opening and closing dates, the names and ages of all pupils enrolled between the ages of 7 and 18, the names and post-office addresses and places of residence of the parents of such pupils, the number of the school district and the distance

such pupils reside from the schoolhouse, the number of days each pupil was present during each month and any other information requested by it.

(3) On or before each October 15, each administrator of a public or private school system shall submit, on forms provided by the department, a statement of the enrollment on the 3rd Friday of September in the elementary and high school grades under his jurisdiction to the department which shall prepare such reports as will enable the public and private schools to make projections regarding school buildings, teacher supply and funds required.

(4) In his annual report under s. 15.04 (4), the state superintendent also shall report:

(a) The condition of all schools under his supervision.

(b) An abstract of the public school reports made to him.

(c) His visits to educational institutions.

(d) The work done by the department in the performance of its duties.

(e) Plans for improving the schools and advancing education.

(f) A summary of the receipts and disbursements of all schools under his jurisdiction.

(g) Such other matters as he deems appropriate.

(5) The department shall make certified copies, when required, of any papers deposited or filed or records kept in the department, and of any act or decision made by it. The fee therefor shall be 15 cents per page.

115.31 Courses of study. (1) **GENERAL.** The department shall prepare and publish courses of study for the public schools, and the other schools under its supervision, and furnish copies thereof to the school boards.

(2) **PHYSICAL TRAINING.** The department shall prescribe a course in physical education and training adapted to the public schools, and have general supervision of physical education in the public schools.

(3) **SPECIAL PROGRAM.** The department shall compile and distribute annually to the public schools, in pamphlet form, matter suitable for the observance of Memorial Day and Arbor Day.

(4) **MUSICAL EDUCATION.** The department shall promote and supervise musical education in the public schools. The state superintendent shall appoint a supervisor of musical education.

(5) **COOPERATIVES AND CONSERVATION.** The department, the dean of the college of agriculture of the university of Wisconsin-Madison and the department of natural resources shall cooperate in the preparation of outlines to be used by teachers in the courses offered under s. 118.01 (8) and in courses in cooperative

marketing and consumers' cooperatives and conservation of natural resources in the university of Wisconsin system. They also may make a recommended list of material for guidance to teachers of these courses.

(6) FAMILY AND CONSUMER EDUCATION. The department shall develop guidelines to be used by public high schools in providing family and consumer education under s. 118.01 (11).

History: 1971 c 164; 1973 c 333, 335.

115.33 Inspection of school buildings. (1) The state supervisors of schools shall be inspectors of public school buildings under the direction of the state superintendent.

(2) If any school district administrator or elector in the school district complains in writing to the state superintendent that any building used for school purposes in the school district is in such condition as to endanger the lives or health of the pupils, or that the building is otherwise unfit for school purposes, the state superintendent shall investigate the matter and may hold a hearing in connection therewith.

(3) (a) If conditions warrant, the state superintendent shall order the school board or other officers having control of the school to repair, improve or remodel such building by a stated date so as to render it safe and sanitary. If he deems the building unfit for school purposes and not worth repairing, he shall order the erection or acquisition of an adequate school building by a stated date. Use of the building after the date specified in the order of the state superintendent without complying with the order shall deprive the school district of its right to share in the school fund income until the state superintendent determines that the school district has complied with his order.

(b) The state superintendent shall file the order in his office, and shall transmit copies to the clerk of the school district, the school district administrator and the clerk of the municipality in which the building is located.

(c) Upon the written application of the school board, the state superintendent shall grant a hearing on the order. Pending the hearing, execution of the order shall be stayed until the conclusion of the hearing, and the superintendent may affirm, amend or vacate his original order.

115.34 School lunch program. (1) The department may contract for the operation and maintenance of school lunch programs and for the distribution, transportation, warehousing, processing and insuring of food products provided by the federal government. The form and specifications of such contracts shall be determined by the department. Amounts

remaining unpaid for 60 days or more after they become payable under the terms of such contracts shall be deemed past due and shall be certified to the department of administration on October 1 of each year and included in the next apportionment of state special charges to local units of government as special charges against the school districts and municipalities charged therewith.

(2) The department shall make supplemental payments to school districts for school lunches served to economically disadvantaged children as determined by the state superintendent. The payment for each pupil's school lunch shall be the difference between the school district's average total cost of a school lunch and the amount of federal aid received as a supplemental payment for that school lunch but shall not exceed 20 cents per lunch.

History: 1971 c 125, 215.

115.345 Nutritional improvement for elderly. (1) Any school district approved by the superintendent may establish a system to provide the opportunity for authorized elderly persons to participate in its school lunch program. If a school board desires to establish such a service, it shall develop a plan for the provision of food services for elderly persons and submit the plan to the superintendent. Upon petition of 5% of the voters in the school district who voted in the last school board election, the school board shall formulate a food services plan, provided that hot food service facilities are available to school children in the district.

(2) Each plan shall provide at least one meal per day for each day that school is in regular session. The school board may provide additional service at other times in its discretion, if the number of eligible persons in the district or adjacent districts is of sufficient size, in the opinion of the superintendent, so that unwarranted production expense is not incurred.

(3) Any school board which operates a food services plan for elderly persons under this section shall make facilities available for service to elderly persons at every high school and junior high school in the district which provides hot food service to its students. Upon application, the superintendent may grant exceptions from compliance with this subsection for reasons of safety, convenience or insufficient interest in a given neighborhood. The school board may, in addition, provide service at elementary schools if desired.

(4) Meals may be served at schools where they are served to students or at any site more convenient to the majority of authorized elderly persons interested in the service. Food may be transported to authorized elderly persons who

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are unable to leave their homes or distributed to nonprofit organizations for such purposes. However, no state funds under this section may be used for food delivery to individual homes. The superintendent may require consolidation of programs between districts and between schools if such a procedure will be convenient and economical.

(5) Authorized elderly persons may be required to contribute toward the expense of food and production at a rate up to \$.65 per meal. The school board may file a claim with the department for reimbursement for reasonable expenses incurred in excess of this amount, excluding capital equipment costs, but not to exceed \$.20 per meal. Any cost in excess of \$.85 per meal may also be charged to participants. If the department approves the claim, it shall certify that payment is due and the state treasurer shall pay the claim.

(6) All meals served must meet the approval of the superintendent who shall establish minimum nutritional standards not inconsistent with federal standards and reasonable expenditure limits such that the average cost per meal is not excessive. The superintendent shall give special consideration to dietary problems of elderly persons in formulating a nutritional plan. However, no school board shall be required to provide special foods for individual persons with allergies or medical disorders.

(7) Participants in a program under this section may be required to document their Wisconsin residency in a manner approved by the department. The superintendent may issue identification cards to such persons if necessary.

(8) The superintendent shall adopt reasonable rules necessary to implement this section.

(9) In this section, "authorized elderly person" means any resident of the state who is 60 years of age or more, or the spouse of any such person. A school board may admit nonresident persons who would otherwise qualify into its program except that no state funds under this section may be used to subsidize any portion of the meals served to such persons.

History: 1973 c. 190

115.35 Health problems education program.

(1) A critical health problems education program is established in the department. The program shall be a systematic and integrated program designed to provide appropriate learning experiences based on scientific knowledge of the human organism as it functions within its environment and designed to favorably influence the health, understanding, attitudes and practices of the individual child which will enable him to adapt to changing health problems of our society. The program shall be designed to

educate youth with regard to critical health problems and shall include, but not be limited to, the following topics as the basis for comprehensive education curricula in all elementary and secondary schools: controlled substances, as defined in s. 161.01 (4); alcohol; tobacco; mental health; and related health and safety topics.

(2) In carrying out this section, the state superintendent may, without limitation because of enumeration:

(a) Establish guidelines to help school districts develop comprehensive health education programs.

(b) Establish special inservice programs to provide professional preparation in health education for teachers throughout the state.

(c) Provide leadership institutions of higher education to develop and extend curricula in health education for professional preparation in both inservice and preservice programs.

(d) Develop cooperative programs between school districts and institutions of higher education whereby the appropriate health personnel of such institutions would be available to guide the continuing professional preparation of teachers and the development of curricula for local programs.

(e) Assist in the development of plans and procedures for the evaluation of health education curricula.

(3) The department may appoint a council consisting of representatives from universities and colleges, law enforcement, the various fields of education, the voluntary health agencies, the department of health and social services, the professional health associations and other groups or agencies it deems appropriate to advise it on the implementation of this section, including teachers, administrators and local school boards.

(4) The department shall cooperate with agencies of the federal government and receive and use federal funds for the purposes of this section.

(5) In each report under s. 15.04 (4), the state superintendent shall include information:

(a) As to the scope and nature of programs undertaken under this section.

(b) As to the degree and nature of cooperation being maintained with other state and local agencies.

(c) As to his recommendations to improve such programs and cooperation.

History: 1971 c. 219.

115.37 Council on the education of the blind. The council on the education of the blind shall make recommendations as to procedures and policies affecting any problem of the visually

handicapped before the department. The council shall advise on such services, activities, programs, investigations and researches as in its judgment will contribute to the welfare of visually handicapped persons. The state superintendent shall seek the advice of and consult with the council on problems and policy changes affecting the visually handicapped in the department's jurisdiction, and the council may initiate consultations with the department. Notwithstanding any provision to the contrary, the council shall have access to files, records and statistics kept in the department which relate to matters concerning the visually handicapped.

History: 1971 c 292

115.46 Interstate agreement on qualification of educational personnel. The interstate agreement on qualification of educational personnel is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

Article I.

Purpose, Findings, and Policy.

1. The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase

the available educational resources. Participation in this compact can increase the availability of educational manpower.

Article II.

Definitions.

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

3. "Accept", or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating state" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to article III.

6. "Receiving state" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to article III of this agreement.

Article III.

Interstate Educational Personnel Contracts.

1. The designated state official of a party state may make one or more contracts on behalf of his state with one or more party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this agreement shall be for a term longer than 5 years but any such contract may be renewed for like or lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV.

Approved and Accepted Programs.

1. Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

2. To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V.

Interstate Cooperation.

The party states agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to article III of this agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI.

Agreement Evaluation.

The designated state officials of any party states may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

Article VII.

Other Arrangements.

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Article VIII.

Effect and Withdrawal.

1. This agreement shall become effective when enacted into law by 2 states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

2. Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX.

Construction and Severability.

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

115.47 Designated state official under agreement. The "designated state official" for this state under s. 115.46 shall be the state superintendent of public instruction.

115.48 Contracts under agreement. True copies of all contracts made on behalf of this state pursuant to the agreement shall be kept on file in the department of public instruction and in the office of the secretary of state. The department of public instruction shall publish all such contracts in convenient form.

SUBCHAPTER III

STATE SCHOOLS AND SCHOLARSHIPS FOR THE HANDICAPPED

115.51 Definitions. In this subchapter:

(1) "Blind" includes persons visually handicapped, as determined by competent medical authority with the approval of the state superintendent.

(2) "Deaf" includes persons who because of some pathological or functional cause cannot attain proficiency in speech without special instruction and training.

115.52 Wisconsin schools for the visually handicapped and the deaf. (1) The object of the Wisconsin school for the visually handicapped and the Wisconsin school for the deaf is to afford the visually handicapped and the deaf a practical education and physical rehabilitation which may aid them to make a living, discharge their duties as citizens and secure to them all possible happiness.

(2) The state superintendent shall maintain and govern the school for the visually handicapped and the school for the deaf. He may fix the period of the school year at the schools at not less than 38 weeks, prescribe the school terms and confer diplomas upon meritorious pupils who have completed the prescribed curricula.

(3) All the blind and the deaf residents of this state between the ages of 6 and 21 who are capable of receiving instruction shall be received and taught in the schools free of charge. Like nonresident pupils also may be received upon payment in advance of the fees fixed by the state superintendent at an amount not less than \$75 per month, but no nonresident shall be received to the exclusion of a resident pupil. The state superintendent also may admit pupils over 21 years of age upon the payment of fees fixed by him and upon the recommendation of the secretary of health and social services, the director of vocational, technical and adult education or the superintendent of the school to which the pupil will be assigned. All pupils shall

equally and freely enjoy the benefits and privileges of the schools and have the use of the library and books of instruction and receive board, lodging and laundry, without discrimination. The schools may provide transportation for resident indigent pupils.

(5) The state superintendent may grant approval for the maintenance of a summer school at the school for the deaf whenever it will be to the advantage of deaf persons. There shall be a summer school each year at the school for the visually handicapped for adult visually handicapped persons. There is no age limitation on summer school admissions.

(6) The state superintendent may make charges for meals, living quarters, laundry and other services furnished to employes of the schools and their families. He also may make charges for services furnished to visitors at the schools and participants in training programs and institutes.

(7) The Wisconsin school for the deaf may provide instruction for preschool deaf children and their parents. The Wisconsin school for the visually handicapped may provide instruction for preschool visually handicapped children and their parents. Such instruction or treatment shall be subject to the approval of, and shall comply with requirements established by, the department.

History: 1971 c 164; 1973 c 89

115.53 State superintendent; powers. The state superintendent may:

(1) Provide for the education of deaf-blind children of suitable capacity to receive instruction either in a special class for that purpose outside the state or in a special class to be established within the state whenever there is a sufficient number of deaf-blind children to warrant the establishment of such class. The cost of such education and the transportation cost of the children and their guardians, when required, shall be charged to the appropriation in s. 20.255 (1) (c).

(2) Arrange for vocational, trade or academic training for any pupil in either state school qualified to take such training advantageously, in either a public school or vocational school or a private business establishment in Janesville or Delavan. The public school and the vocational school shall be paid the regular tuition for full-time attendance and pro rata for part-time attendance from the appropriation in s. 20.255 (2) (a).

(3) Arrange for otological or ophthalmic examination of any pupil or prospective pupil of the schools. The examination shall be paid for from the appropriation in s. 20.255 (2) (a).

(4) Apply to the board of regents of the university of Wisconsin system for admission to the Wisconsin general hospital of any pupil in the state schools.

(a) The application shall be accompanied by the report of a physician appointed by the appropriate school superintendent and shall be in the same form as reports of other physicians for admission of patients to such hospital.

(b) The net cost of such hospital treatment shall be at the rate charged to counties for county patients and shall be chargeable one-half to the appropriation for operating the patient's school and one-half to the state. The state superintendent likewise may authorize payment for the expense of transporting patients to and from the hospital. Payments for the treatment shall be made by him to the board of regents for the half chargeable to the operation fund of the school and the other half shall be paid as provided in s. 142.08 (2). Funds collected by him on account of such hospitalization shall be deposited one-half in the general fund and one-half in the appropriation under s. 20.255 (2) (a) for the school concerned.

(5) Arrange for visits by members of the staff of either school to other public schools or to families of blind or deaf children, whenever it appears to him that such visits will be of advantage to blind or deaf children.

(6) Set aside not to exceed \$3,000 annually from the appropriation under s. 20.255 (1) (c), to be used to defray the expenses of readers for blind or deaf pupils between the ages of 16 and 21 enrolled in any public high school or vocational, technical and adult education school in this state. The aid to any one pupil shall not exceed \$125 per year. This aid shall not be granted to any student unless the administrator of the division for handicapped children and the superintendent of the school for the visually handicapped or of the school for the deaf, depending upon whether the child is blind or deaf, agree that it is best for the student to attend such vocational or high school.

History: 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1973 c. 90; 1973 c. 243 ss. 50, 82.

115.54 Compulsory education. If it appears, by affidavit, to any county judge that any blind or deaf child between the ages of 6 and 21 is deprived of a suitable education by the failure of the person having the care and custody of the child to provide a suitable education, the judge shall order such person to bring the child before him. If the material allegations of the affidavit are denied, he shall subpoena witnesses and hear testimony. If the allegations are admitted or established, the judge may order the child sent to the school for the visually handicapped or for the

deaf or to some class or other school for instruction, but the order shall not make a direct charge for the class or school against any county.

115.55 Library for the blind. Embossed, clear type or large type books, talking book machines and talking book records acquired by the school for the visually handicapped shall constitute a circulating library for the blind. The library shall be kept at the school and be in charge of its superintendent. All blind citizens of the state may use such books upon compliance with rules made by the superintendent and approved by the state superintendent.

115.56 Scholarships for blind students. Under the direction of the superintendent of the school for the visually handicapped and subject to the approval of the state superintendent, any blind person who has been a resident of this state for at least 5 years preceding application for aid under this section and who is a regularly enrolled student in any university, college or conservatory of music may receive aid for the purposes of defraying tuition and other necessary expenses, including a reader, while in attendance at the university, college or conservatory of music. The aid to any such person shall not exceed \$400 in any one year, nor shall the total aid exceed \$2,000.

115.57 Scholarships for deaf and hard of hearing students. Under the direction of the division for handicapped children and subject to the approval of the state superintendent, any deaf or hard of hearing person who has been a resident of this state for at least 5 years preceding application for aid under this section and who is a regularly enrolled student in any university or college may receive aid for the purposes of defraying tuition and other necessary expenses while in attendance at the university or college. The state superintendent shall set standards to determine the amount to be granted. The aid to any such person shall not exceed \$500 in any one year.

115.58 Parkgrounds. The state superintendent may permit the city of Janesville to use portions of the grounds of the state school for the visually handicapped at Janesville, which abut on the Rock river, for purposes of operating a city park. Any construction on such grounds is subject to prior approval by the state superintendent. Any agreement pursuant hereto shall be cancelable at the option of either party without liability. Any such grounds so used by the city of Janesville shall be supervised by the city and shall be subject to the ordinances of the city of Janesville applicable to city parks.

SUBCHAPTER IV

CHILDREN WITH EXCEPTIONAL
EDUCATIONAL NEEDS

115.76 Definitions. In this subchapter:

(1) "Administrator" means the administrator of the division for handicapped children.

(2) "Child" means any person under the age of 21 years, except as otherwise provided.

(3) "Child with exceptional educational needs" means any child who has a mental, physical, emotional or learning disability which, if the full potential of the child is to be attained, requires educational services to the child to supplement or replace regular education. Children with the following conditions, in addition to children with such other conditions as the state superintendent determines, may require educational services to supplement or replace regular education:

(a) Physical, crippling or orthopedic disability.

(b) Mental retardation or other developmental disabilities.

(c) Hearing impairment.

(d) Visual disability.

(e) Speech or language disability.

(f) Emotional disturbance.

(g) Learning disability.

(h) Pregnancy, including up to 2 months after the birth of the child or other termination of the pregnancy.

(i) Any combination of conditions named by the state superintendent or enumerated in pars. (a) to (h).

(4) "Division" means the division for handicapped children.

(5) "Expanded program" means any program which has increased its educational services, facilities or staff in such manner and degree as specified in written standards issued by the state superintendent.

(6) "Parent" includes a guardian.

(7) "Part of a program" means that portion of a program in which a child with a particular type of exceptional educational need participates.

(8) "Reduced program" means any program which has decreased its educational services, facilities or staff in the manner and degree specified in written standards issued by the state superintendent.

(9) "Regular education" means the educational program provided by a public or private school for children who do not have exceptional educational needs.

(10) "Special education" means any educational assistance required to provide an appropriate education program for a child with

exceptional educational needs and any supportive or related service.

(11) "Institutional resident" means any person who has been admitted and is domiciled or cared for in or by a private or parochial special purpose residential care center.

History: 1973 c. 89, 333

115.77 Division for handicapped children.

(1) APPOINTMENT OF ADMINISTRATOR. The state superintendent shall appoint the administrator.

(2) DUTIES OF ADMINISTRATOR. Subject to the direction of the state superintendent, the administrator:

(a) Shall appoint qualified personnel necessary to perform the duties required of the division.

(b) Shall audit expenditures incurred for children with exceptional educational needs.

(3) SPECIAL EDUCATION RESPONSIBILITIES. The division shall be responsible for:

(a) Services for children with exceptional educational needs who are under the jurisdiction of the state superintendent and for the Wisconsin school for the deaf and the Wisconsin school for the visually handicapped.

(b) 1. Provision of facilities for diagnosis through orthopedic field clinics and for aftercare for children who are crippled or who are suffering from conditions which lead to crippling. Such responsibility shall be for those facilities not provided through hospitals, by private physicians or through private organizations. The division shall approve applications and arrange for orthopedic hospital care when state aid is granted for any part of the cost. This paragraph shall be administered in accordance with requirements of the federal social security act.

2. Submission to the proper federal authorities of a state plan, prepared by the medical director of the division in accordance with federal requirements, for services for crippled children. The state plan may be revised as conditions require. The division shall make reports, in such form and containing such information as the proper federal authorities require, and shall comply with all requirements made to assure the correctness and verification of such reports.

(c) Services provided to children with exceptional educational needs by special education programs under s. 115.85 (2).

(d) Supervision of the education of all children who have attained the age of 3 years, who have exceptional educational needs and who reside in any facility operated by the state or a county. Such supervision shall include:

1. The power to require the submission of reports relating to educational services provided or planned.

2. Advising the superintendent of each state or county facility.

3. Recommending to the state superintendent standards for certification of personnel whom the state superintendent determines to be involved in the education of children described in this paragraph.

(e) Making or approving arrangements for transportation to and from the child's home to the special education program, or, on school days for board, lodging and transportation to and from the child's boarding home to the special education program, if the child's parents reside outside the school district, cooperative educational service agency or county in which the child receives special education.

(4) DIVISION DUTIES. The division shall:

(a) Coordinate the development of all special education programs operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency or by state or county residential facility for children who have attained the age of 3 years and who have exceptional educational needs.

(b) Before the program receives any state funds, approve all new or expanded special education programs operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency or by a state or county residential facility for children who have attained the age of 3 years and who have exceptional educational needs.

(c) Before a discontinuance or reduction of program becomes effective, approve all plans to discontinue or reduce programs operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency or by a state or county residential facility for children who have attained the age of 3 years and who have exceptional educational needs.

(d) Maintain current information on all public and private special education programs within the state and make this information public.

(e) Whenever an individual's report is made under s. 115.80 (1) (a), inform the person who made the report and the child's parent of the procedure for obtaining an examination of the child by a multidisciplinary team under s. 115.80 (3).

(f) Develop a program for the preparation, recruitment and in-service training of personnel in special education and related fields, including participation, as appropriate, by institutions of

higher education, state and local agencies and other public and private organizations. A plan for the development of this program, including statements of duties and responsibilities of personnel to be trained, shall be made within one year after Aug. 9, 1973. The plan shall be implemented no later than July 1, 1976.

(5) RECEIPT OF FEDERAL AID. Any federal aid which is made available for special education programs shall be granted the division for carrying out plans approved by the federal agency having supervision of the aid program.

History: 1973 c. 89.

115.78 State exceptional educational needs plan. The state superintendent shall annually issue and make public a state plan for the education of children with exceptional educational needs. The state plan shall include:

(1) The number and geographic distribution of all children who reside in this state and who have exceptional educational needs.

(2) A listing of all public and private special education programs available in this state, the number of children attending each special education program pursuant to s. 115.85 (2) or supervised under s. 115.77 (3) (d) and the state aid given to each program so attended or supervised.

(3) A statement of the personnel and facilities available through public and private special education programs to provide instruction and other services for children with exceptional educational needs.

(4) An analysis of the present distribution of responsibility for special education between the state, school districts and other governmental units.

(5) Identification of the specific goals of each type of special education program in which children are enrolled pursuant to s. 115.85 (2) or provided by a state or county facility supervised under s. 115.77 (3) (d).

(6) Standards for the screening, identification and educational program for children with exceptional educational needs.

(7) A 5-year projection of the special education needs of children who reside in this state.

(8) Recommendations for changes in the law and administrative procedures to meet the special education needs stated in the plan.

History: 1973 c. 89.

115.79 Council on special education. (1) The state superintendent shall consult with the council on special education concerning:

(a) All proposed department or division policies and rules relating to the education of children with exceptional educational needs.

(b) New special education programs, expansions, reductions or terminations of existing special education programs under s. 115.77 (4) (b) and (c).

(c) The state plan required under s. 115.78.

(d) Any other matters upon which the state superintendent wishes the council's opinion.

(2) The council may report biennially to the legislature on the progress made by special education programs and planning in the state and any other information it deems desirable.

(3) The council shall have access to reports and statistics kept by the department relating to matters concerning children with exceptional educational needs.

History: 1973 c 89

115.80 Identification of children with exceptional educational needs.

(1) **INDIVIDUAL'S REPORT.** (a) A parent or a physician, nurse, social worker or administrator of a social agency who has reasonable cause to believe that a child brought to him for services has exceptional educational needs shall report the name of such child and any other information required to the school board for the district in which the child resides or to the division, except as provided in par. (b).

(b) A person who is required to be certified or licensed under s. 115.28 (7), who is employed by the school district in which a child attends public school and who has reasonable cause to believe a child has exceptional educational needs shall report such child and any other information required to the school board.

(c) Before any report is made under this subsection, the person making the report shall inform the child's parent that the report will be made.

(2) **SCHOOL DISTRICT SCREENING.** Pursuant to any standards adopted by the state superintendent under s. 115.78 (6), the school district shall screen each child when the child first enrolls in a public school in the school district in order to determine if the child has exceptional educational needs.

(3) **MULTIDISCIPLINARY TEAM.** (a) A multidisciplinary team shall be appointed by the school board and composed of 2 or more persons who are skilled in assessing exceptional educational needs that a child may have and who are skilled in programming for children with exceptional educational needs. The state superintendent shall determine the method of appointing members to the team and may require that there be additional members. The number and specialities of additional members may depend on the exceptional educational needs which the particular child is believed to have.

(b) The multidisciplinary team shall, upon written parental approval examine any child who has attained the age of 3 years and who as a result of the school district screening under sub. (2) is believed to have exceptional educational needs, is referred to it by a parent as a result of an individual's report to the school board or division under sub. (1) (a) or by a school board.

(c) The multidisciplinary team shall consult with the child's parent prior to recommending a child for a special education program.

(d) The multidisciplinary team shall recommend a child to the school board for special education if it deems it in the best interests of the child, except that a pregnant girl shall be recommended for special education only if she has not graduated from high school, is under the age of 21 and if she and her parent consent that she be recommended for special education.

(e) If the multidisciplinary team recommends a child for special education, it shall also recommend to the school board an educational program fitted to the individual child's needs. If the educational program recommends instruction at the home, residence or other location of the child, there shall be a physician's statement in writing that the child is unable to attend school.

(4) **TEACHER'S REPORT.** Annually, the school district shall require a report, on forms prepared by the department, from the teacher of each child who has attained the age of 3 years and who is receiving special education under s. 115.85 (2) or in a state or county residential facility supervised under s. 115.77 (3) (d). The report shall state the teacher's assessment of the child's progress in the past year and the teacher's recommendation for further education of the child.

(5) **REEXAMINATION.** Each child who has attained the age of 3 years and who is receiving special education under s. 115.85 (2) or in a state or county residential facility supervised under s. 115.77 (3) (d) shall be reexamined by a multidisciplinary team at least once every 3 years.

History: 1973 c 89

115.81 Parental appeals.

(1) **RIGHT TO APPEAL.** (a) A child's parent may appeal to the school board a decision relating to special education for the child if:

1. The appeal is filed within 4 months after the school district clerk has mailed the notice of placement under sub. (2) (b).

2. The appeal is filed within 4 months after the school district clerk has mailed the notice of removal under sub. (2) (c).

3. The parent believes the local school board has placed the child in a special education

program which does not satisfactorily serve the child's needs.

4. The child has not been placed in a special education program and the parent believes that such placement would benefit the child.

(b) No more than one appeal under par. (a) 3 and no more than one appeal under par. (a) 4 may be initiated in any school year.

(2) NOTICES. (a) Upon receipt of a recommendation for special education from a multidisciplinary team under s. 115.80 (3) (d), the school district clerk of the district in which the child resides shall immediately mail to the child's parent a notice of the recommendation and a brief statement of the reasons for the recommendation.

(b) When a decision is made under s. 115.85 (2) to place a child in a special education program, the school district clerk of the district in which the child resides shall immediately mail to the child's parent a notice of the decision and a brief statement of the reasons therefor.

(c) Whenever a decision is made by a school board to remove a child with exceptional educational needs from an educational program in which such child is currently enrolled, the school district clerk of the district in which the child resides shall mail to the child's parent a notice of the decision and a brief statement of the reasons therefor.

(d) The notice of placement under par. (b) or program change under par. (c) shall state that a hearing before the school board or a person appointed by it may be had if requested in accordance with procedures established by the department and set forth in the notice.

(3) CHANGE IN PROGRAM. A change in the program or status of a child with exceptional educational needs shall not be made within the period afforded the parent to request a hearing nor, if such hearing is requested, before the school board issues a decision, unless a program change is made with the written consent of the parent. If the health or safety of the child or of other persons would be endangered by delaying the change in assignment, the change may be made earlier, upon order of the school board hearing the case, but without prejudice to any rights that the child or parent may have.

(4) RIGHTS AT HEARING. A parent shall have access to any reports, records, clinical evaluations or other materials upon which a decision relating to the child's educational program was wholly or partially based or which could reasonably have a bearing on the correctness of the decision. At any hearing held under this section, the parent may determine whether the hearing shall be public or private, examine and cross-examine witnesses, introduce evidence, appear in person and be represented by an

advocate. The school board shall keep a full record of the hearing. A detailed summary thereof shall be given to the parent, if requested.

(5) INDEPENDENT EXAMINATION. If a child's parent believes the diagnosis or evaluation of the child as shown in the records made available to him under sub. (4) is in error, he may obtain an independent examination and evaluation of the child and have the report thereof presented as evidence in the hearing. If the parent is financially unable to afford an independent examination or evaluation, the school district shall reimburse the parent for the reasonable expenses of the examination or evaluation.

(6) HEARING AND DECISION. The school board shall hold a hearing within 60 days of appeal and shall issue a decision based upon the hearing record and the recommendation of the multidisciplinary team within 30 days of the close of the hearing. If no decision is made by the school board within the 30-day period following the close of the hearing, the decision appealed from shall be deemed affirmed.

(7) APPEAL TO STATE SUPERINTENDENT. Within 30 days after the decision of the school board, the parent may appeal the decision to the state superintendent. The state superintendent shall issue a decision based upon the hearing record and the recommendation of the multidisciplinary team within 30 days of appeal. If no decision is made by the superintendent within the 30-day period following the close of the hearing, the decision appealed from shall be deemed affirmed.

(8) APPEAL TO COURT. Within 30 days after the decision of the state superintendent, the parent may appeal the decision to the circuit or county court of the county in which the child resides.

History: 1973 c. 89

115.82 Compulsory attendance. The provisions of s. 118.15 relating to compulsory school attendance apply during the school term to children with exceptional educational needs and may be satisfied by attendance at special education programs operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency, state or county residential facility or private special education service.

History: 1973 c. 89

115.83 Authorization of special education programs and services. (1) A school board, board of control of a cooperative educational service agency or, upon authorization of the county board, a county handicapped children's education board may:

(a) Subject to approval by the division under s. 115.77 (4) (b) and (c), establish, maintain, expand, reduce or discontinue a special education program, including special physical or occupational therapy services, for children with exceptional educational needs.

(b) Employ, for a special education program, either full- or part-time certified teachers, certified coordinators of special education, certified school social workers, certified school psychologists, paraprofessionals, certified consulting teachers to work with any teacher of regular education programs who has a child with exceptional educational needs in a class and any other personnel approved by the department.

(c) Provide in-service training for any teacher who has a child with exceptional educational needs in a class and any other services approved by the department.

(2) A special education program may consist of such special education programs for children as to allow them to attend regular education programs, one or more special schools or preschools, special sections within a school or preschool, special instruction centers, special instruction at the home or residence of the child or at any other location or any other special education program approved by the state superintendent.

(3) A special education program may be supplemented by family guidance or counseling services to train other members of the child's family to assist in the child's education.

(4) A special education program may be for the school term, may include a summer program or may be for the school year.

(5) The courses, qualifications of teachers, coordinators, social workers and school psychologists and plan of organizing and maintaining special education programs and other services shall comply with requirements established by the state superintendent.

History: 1973 c 89

115.84 Local report. The school board, board of control or county handicapped children's education board maintaining special education programs or other services shall report annually to the department, and at such other times as it directs, such information as it requires. The report shall include the number of pupils instructed or provided service, their residence and the period of time each was instructed or otherwise served during the school year. Annually, each board shall submit to the department an itemized statement on oath of all receipts and disbursements on account of such special education programs or other services during the preceding school year.

History: 1973 c 89

115.85 School district. (1) RESPONSIBILITY TO MAKE PROGRAMS AVAILABLE (a) 1. Each school district shall ensure that appropriate special education programs are available to children with exceptional educational needs who have attained the age of 3 years and who reside in the school district.

2. A school district may make available appropriate special education programs to children with exceptional educational needs who have attained the age of 3 years and who reside in the school district and are full- or part-time institutional residents of private or parochial special purpose residential care centers specializing in the care and treatment of those children described in s. 115.76 (3) if the school district has provided such programs to such children prior to June 29, 1974.

(b) A school district may provide special education for preschool children under the age of 3 years and instruction for their parents. Such special education shall be subject to the approval of and shall comply with requirements established by the state superintendent.

(c) The school board shall submit to the division any information it requires concerning special education in state or county facilities supervised by the division under s. 115.77 (3) (d) and shall advise the superintendent of each such facility.

(2) PLACEMENT IN APPROPRIATE PROGRAM. The school board after consultation with the multidisciplinary team and after the parent has consented in writing shall place in an appropriate special education program a child who has been recommended for special education by a multidisciplinary team and who resides in the school district. The board may delegate this responsibility in such manner and to such person as it deems appropriate, including the multidisciplinary team.

(a) If the school district, the county in which the child resides or the cooperative educational service agency for the school district in which the child resides operates an appropriate special education program, the child shall be placed in such program.

(b) If an agency enumerated in par. (a) does not operate a special education program which is appropriate for the child's needs, the child shall be placed in a program operated in this state by a public agency as near as possible to the place where the child resides.

(c) If no public agency in this state operates an appropriate program the child shall be placed, with the approval of the state superintendent, in an appropriate public program in another state.

(d) To provide a special education program which is appropriate to the child's needs, the school board may, upon approval of the state

superintendent and if no equivalent public program is locally available, contract with a private special education service whose governing board, faculty, student body and teachings are not chosen or determined by any religious organization or for any sectarian purpose.

(e) The school board may place a child with exceptional educational needs in a special education program at the home, residence or other location of the child only if there is a physician's statement in writing that the child is unable to attend school, as required under s. 115.80 (3) (e).

(3) **SCHOOL DISTRICT PLAN.** Annually, on or before August 15, each school board shall report to the department such information as it requires, including the following:

(a) The total number of children who reside in the district and who have been placed in special education programs under s. 115.85 (2), the exceptional educational needs of each such child and the school attended or special education received by each such child. The report shall also specify the number of children with exceptional educational needs who are known to the school district and who are under the age of 3 years and the exceptional educational needs of each such child.

(b) A description of the screening process for exceptional educational needs provided under s. 115.80 (2) to each child who enters public school in the district.

(c) A description of the special education programs in which children who reside in the district have been placed under sub. (2), the number of persons attending each pursuant to sub. (2) and the qualifications of the staff of each such special education program.

(d) An evaluation, in terms of the goals identified under s. 115.78 (5), of the progress made by each special education program in which children who reside in the district are placed under sub. (2).

(e) An evaluation of the progress made by each child who resides in a facility operated by the state or a county, who has attained the age of 3 years and whose parent resides in the district and a statement of the expected duration of the child's stay in such facility.

(f) Plans for new, expanded, or reduced public school special education programs or for discontinuation of any such program or part of such program.

History: 1971 c. 125 ss. 449, 522 (1); 1973 c. 89, 90, 333, 336

115.86 Handicapped children's education board. (1) **DEFINITIONS.** In this section "board" means the county handicapped children's education board.

(2) **ESTABLISHMENT.** Any county board may determine to establish a special education program for children with exceptional educational needs, for school districts in the county. The program may provide for one or more special schools, classes, treatment or instruction centers or any other service authorized under s. 115.83 for children with one or more types of exceptional educational needs. A school district shall be included under such county program only to the extent approved by formal action of the school board of the district. When the county board determines to establish such a program, it shall create a board to be known as the "Handicapped Children's Education Board".

(3) **ORGANIZATION.** (a) The board shall consist of 3 or 5 persons, as determined by the county board, elected by the county board or appointed by the chairman of the county board, as the rules of the county board direct. Board members shall be electors selected from that part of the county participating in the program and shall be representative of the area the board serves. The board may include school board members, county board members and other electors. Board members shall hold office for a term of 3 years, except that the terms of office of members of the first board shall be 3 years, 2 years and one year. Board members shall receive compensation and reimbursement for mileage in an amount fixed by the county board, but not more than that of county board members.

(b) The board annually shall select one member as chairman and one as secretary. The county treasurer shall serve as board treasurer but shall not be a member of the board.

(c) The board shall appoint an advisory committee whose membership includes school district administrators representative of the area the board serves.

(4) **APPLICATION.** Upon authorization of the county board, application for the establishment of a program or any part thereof shall be made by the board to the division. The application shall state whether the program or part will be available in the county at large or only to certain school districts.

(5) **BOARD DUTIES.** The board shall have charge of all matters pertaining to the organization, equipment, operation and maintenance of such programs and may do all things necessary to perform its functions, including, without restriction because of enumeration, the authority to erect buildings subject to county board approval and employ teachers and other personnel. The board shall prepare an annual budget which shall be subject to approval of the county board under s. 65.90 and shall include, without limitation because of enumeration, funds for the hiring of staff, the purchase of

materials, supplies and equipment and the operation and maintenance of buildings or classrooms.

(6) **ASSIGNMENT OF FUNCTIONS.** The county board may assign by resolution the functions of the board to a cooperative educational service agency operating in the county, but if the board continues to exist, it may contract with the agency board of control or a school board of any district in the county for professional and administrative services or for any of the purposes enumerated in s. 115.83. If the board does continue to exist it remains responsible for the program.

(7) **WITHDRAWAL AND DISSOLUTION.** (a) The school board of any district which is included under the administration of a board may withdraw from participation in any part of the program only with the approval of the state superintendent after conference with the board and a determination by the state superintendent that such withdrawal is in the interest of the program in the county and the school district affected. Such withdrawal shall be effective only if the school board has the approval of the division to establish an equivalent part of a program. Such withdrawal shall not be effective until the end of the next full school term. The withdrawing school district shall be liable for its proportionate share of all operating costs until its withdrawal becomes effective, shall continue to be liable for its share of debt incurred while it was a participant and shall receive no share in the assets.

(b) A program established under this section may be dissolved by action of the county board, but such dissolution shall not take place until the end of the school term in which the action was taken. When a program is dissolved, assets and liabilities shall be distributed under s. 66.03 to all units which participated in the program.

(8) **TRANSPORTATION.** The board may promulgate a plan for the transportation at county expense of children who are participating in special education programs under this section, special education programs operated at day care centers or special education programs operated by a private organization within whose attendance area the child resides and which is situated not more than 5 miles beyond the boundaries of the area the board serves, as measured along the usually traveled route. The plan, upon approval of the state superintendent, shall govern the transportation of such children. Any such plan for transportation during the school term supersedes ss. 115.88 and 121.54 (3).

(9) **AREA TAXED.** The tax for the operation and maintenance of each part of a special education program and for the transportation of children under sub. (8) shall be levied against

the area of the county participating in the part of the program.

(10) **STATE AIDS.** The board may apply for and receive the state aid under ss. 115.88, 121.135, 121.14, 121.15 and 121.58 (2) (b) for the transportation, board and lodging, treatment and instruction of children participating in programs under this section. All state aid shall be paid to the county treasurer and credited to the fund of the board.

History: 1973 c. 89.

115.87 Admission, tuition and transportation. (1) A cooperative educational service agency, county handicapped children's education board or school district which operates a special education program may admit a nonresident if the program is appropriate for the child's exceptional educational needs. Refusal to admit a child does not relieve the school district in which the child resides of its responsibilities under s. 115.85 (1).

(2) The basis for enrollment of a physically disabled child in an orthopedic school shall be the child's need for orthopedic school services as determined by a multidisciplinary team.

(3) Tuition shall be charged for nonresidents admitted to special education programs in accordance with this section. For each part of a program, the tuition for a nonresident child shall be determined on the basis of costs, aids and children in such part for the preceding year by adding together the total cost of items reported under s. 115.88 (1), the actual cost of operation and maintenance not so reported and amounts expended as principal and interest on long-term indebtedness on those facilities used by such part of a program, by subtracting from such sum federal, state and county aids and then dividing this difference by the number of children in average daily membership.

(4) In counties having a population of less than 500,000, if a child with exceptional educational needs resides in a school district or county which does not maintain an appropriate special education program and attends a special education program in another school district or county, tuition therefor shall be chargeable under this subsection.

(a) Annually on or before August 1, the school district clerk and the secretary of the county handicapped children's education board shall file with the clerks of the county and the city, village or town of residence of nonresident children admitted to the program of the school district or county a sworn statement of claim for tuition therefor against the county. The claim shall set forth the residence, name, age, date of entrance and number of weeks in attendance during the preceding school year of each such

child, the amount of tuition to which the school district or board lays claim for each such child and the total amount of tuition due the school district or board from the county. The county clerk shall examine the claims for the purpose of determining their accuracy and legality and may call upon school, county or local officials to obtain supply data which will verify the claims.

(b) After examining the claims, the county clerk shall notify the school district clerk or secretary of the board of the result of his examination. If corrections are necessary, the county clerk shall notify the school district clerk or secretary of the board who shall meet with the county clerk, at the expense of the school district or board to make corrections. The county clerk then shall apportion the amount of the claims, for each type of exceptional educational need, on the basis of the ratio of the equalized valuation of that portion of each municipality within the county that lies outside of the territory served by all programs for children with that exceptional educational need that are operated by school districts or pursuant to s. 115.83 to the total equalized valuation of all the territory in the county that lies outside of the territory served by all programs for children with that exceptional educational need operated by school districts or under s. 115.83 and shall certify that amount to the clerks of such municipalities.

(c) Upon receipt of the certification from the county clerk, each municipal clerk shall spread the amounts thereof upon the tax rolls for collection. When taxes are collected, such amounts shall be paid by the county treasurer to the treasurer of each school district or county handicapped children's education board to which due.

(5) In counties having a population of 500,000 or more, the school district of residence shall pay tuition charges for children with exceptional educational needs as provided in par. (a) or (b).

(a) Annually on or before August 1, the school district clerk shall file with the clerk of the school district of residence of such nonresident children who reside in school districts that lie wholly or partially in counties having a population of 500,000 or more a sworn statement of claim against the school district of residence. The claim shall set forth the name, age, date of entrance and number of weeks in attendance during the preceding school year of each such child, the amount of tuition to which the school district lays claim for each such child and the total amount of tuition due the school district of attendance from the school district of residence. After examining the claim and verifying it, the clerk of the school district of residence shall cause reimbursement to be made to the treasurer

of the claimant school district as other claims are paid.

(b) Any 2 or more school districts, by written agreement of their school boards, may admit residents of the other school districts to any phase of the program for children with exceptional educational needs and waive all claims for tuition for such admittance.

(6) If a child with exceptional educational needs resides in a school district or area served by a county handicapped children's education board which maintains an appropriate special education program for such child and if the child attends a special education program in another school district or area served by another county handicapped children's education board, tuition therefor shall be charged to the school district of residence if the school board of such district has placed the child pursuant to sub. (6m) or to the child's parent unless the state superintendent and the school district administrators or county handicapped children's education boards have approved the transfer. If the state superintendent and school district administrators or county handicapped children's education boards approve the transfer of a child to an equivalent special education program in another school district or area served by another county handicapped children's education board for good reason to serve the best interests of the child, the child may attend such special education program and tuition therefor shall be paid by the school district or county of residence.

(6m) If a school district has territory lying in 2 or more counties which have county handicapped children's education boards which operate comparable programs and if one of the boards operates a program in a facility owned or leased by the school board, the school board may, if it deems it to be in the child's best interest, place a child in the program operated in the district's facilities and pay tuition to the county handicapped children's education board operating such program if the child resides in the district but does not reside in the county operating the program. Tuition shall be computed under sub. (3).

(7) In addition to the requirements of s. 121.54 (3), when board and lodging are not furnished to nonresident children with exceptional educational needs the school district in which the child resides or, if there is a plan of transportation under s. 115.86 (8), the county handicapped children's education board shall provide transportation.

(8) Upon the advance approval of the state superintendent, the school board of any district may place a child in a special education program outside this state in accordance with s. 115.85 (2) (c) or a special education program operated

by a private, nonsectarian special education service either within or outside the state in accordance with s. 115.85 (2) (d). If the child resides in a county having a population of less than 500,000, the county of residence shall pay the tuition and transportation in accordance with the procedure established for the payment of tuition by the county under sub. (4). If the child resides in a county having a population of 500,000 or more, the school district of residence shall pay the tuition and transportation in accordance with the procedure established for the payment of tuition by the school district under sub. (5).

History: 1973 c. 89, 243, 258, 333.

115.88 State aid. (1) **PROGRAM AID.** If, upon receipt of the report under s. 115.84, the state superintendent is satisfied that the special education program has been maintained during the preceding school year in accordance with law, he shall certify to the department of administration in favor of each county, cooperative educational service agency and school district maintaining such special education program a sum equal to 70% of the amount expended by the county, agency and school district during the preceding year for special books and equipment used in programs under this subchapter, salaries of personnel enumerated in s. 115.83 (1), except as provided in pars. (a) and (b), and other expenses approved by the state superintendent. The department of administration shall pay such amounts to the county, agency and school district from the appropriation under s. 20.255 (1) (d). The amount of aid paid to any county, agency or school district under this subsection shall be reduced by any amounts received by that county, cooperative educational service agency or school district under sub. (7) for the same school year.

(a) Salaries of coordinators of special education, school social workers or school psychologists who have not attained the senior level shall not be reimbursable under this subsection.

(b) Salaries of senior level school psychologists and senior level school social workers shall be reimbursed at 33-1/3% without regard to whether they are employed in a program for handicapped children. Salaries of senior level school psychologists and senior level school social workers shall be reimbursed at 50% if the school psychologist or social worker spends at least 50% of his time as a part of a multidisciplinary team under s. 115.80 (3) or working directly with or on behalf of a child who has been placed in a special education program under s. 115.85 (2) and such salaries shall be reimbursed at 70% if the school psychologist or

social worker spends all of his time as a part of a multidisciplinary team under s. 115.80 (3) or working directly with or on behalf of a child who has been placed in a special education program under s. 115.85 (2). The school district, county handicapped children's education board or cooperative educational service agency shall include in the report under s. 115.84 any information required by the state superintendent relating to use of a school psychologist or school social worker.

(2) **TRANSPORTATION AID.** If upon receipt of the report under s. 115.84 the state superintendent is satisfied that the transportation of children with exceptional educational needs has been maintained during the preceding year in accordance with the law, he shall certify to the department of administration in favor of each county, cooperative educational service agency or school district transporting such pupils 70% of the difference between the amount expended for such transportation and the amount of aid specified in s. 121.58 (2) or (4), whichever is applicable. The department of administration shall pay such amounts to the county, agency or school district from the appropriation under s. 20.255 (1) (d). This subsection applies to any child with exceptional educational needs who requires special assistance in transportation, including any such child attending regular classes who requires special or additional transportation. This subsection shall not apply to any child with exceptional educational needs attending regular or special classes who does not require any special or additional transportation.

(3) **BOARD AND LODGING AID.** There shall be paid the amount expended for board and lodging and transportation between the boarding home and the special education program of nonresident children enrolled under s. 115.85 (2) in the special education program. The department shall certify the full amount to the department of administration which shall pay such amount from the appropriation under s. 20.255 (1) (d) to the school district, cooperative educational service agency, county handicapped children's education board, state agency of another state or private, nonsectarian special education service which operates the special education program while providing board, lodging and transportation.

(4) **HOSPITALS AND CONVALESCENT HOME AID.** The full cost of special education for children in hospitals and convalescent homes for crippled children shall be paid from the appropriation under s. 20.255 (1) (d). The supervision of such instruction shall be under the department and the school board of the school district in which the hospital or convalescent home is located. The school board of the district

in which the hospital or convalescent home is located shall submit to the department an itemized statement of all receipts and disbursements for the actual cost of such instruction and any other information it requires.

(5) ORTHOPEDIC SCHOOL AID. From the appropriation under s. 20.255 (1) (d) there shall be paid the full cost of salary and travel expenses, in amounts determined in advance by the state superintendent, to school districts, county handicapped children's education boards or cooperative educational service agencies operating an orthopedic school for services by physical therapists performed outside the employing school district.

(6) AID FOR INSTRUCTION OUTSIDE OF DISTRICT. From the appropriation under s. 20.255 (1) (d) there shall be paid the full cost of salary and travel expenses, in amounts determined in advance by the state superintendent, to school districts for providing special education outside the school district of employment.

(7) ADVANCEMENT OF AID FOR NEW OR EXPANDED PROGRAMS. Any school district, board of control of a cooperative educational service agency or county handicapped children's education board whose application under s. 115.77 (4) to establish or expand a special education program has been authorized may request, and upon a determination of need by the state superintendent, shall receive in advance, for the first year of operation not more than:

(a) For a new program, 75% of the estimated amount of aid which will be paid under sub. (1) for the first year.

(b) For an expanded program, 75% of the difference between the estimated amount of aid which will be paid under sub. (1) for the first year and the amount of aid which the program received for the previous year under sub. (1).

History: 1973 c. 89, 333.

115.881 Aid for local screening activities.

(1) From the appropriation under s. 20.255 (1) (db) there shall be paid a sum equal to 70% of the amount not to exceed \$7.50 per pupil expended by the county, agency or school district in conducting screening in order to determine if the child has exceptional educational needs as provided in s. 115.80 (2). Costs incurred may include the purchase of screening materials, salaries of personnel conducting the screening or contracted services related to the scoring or evaluation of data obtained in the screening process. This aid formula shall apply only to children of preschool (ages 3-4) and kindergarten through grade 2 level being screened for suspected exceptional educational needs.

(2) If the appropriation under s. 20.255 (1) (db) in any one year is insufficient to pay the full

amount under sub. (1), aid payments shall be prorated among the counties, agencies or school districts entitled thereto.

History: 1973 c. 333.

115.89 Noncomplying school district; remedies. (1) If, after a public hearing in the school district, the state superintendent finds that a school district has not provided programs for children with exceptional educational needs as required by s. 115.85 (1) and (2), he shall make findings to that effect, including a finding that the school district has denied equal educational opportunities to children with exceptional educational needs.

(2) After the state superintendent has found that a school district has denied equal educational opportunities to children with exceptional educational needs he may make recommendations to the school district to remedy the denial and may require the school district to submit a remedial plan incorporating such recommendations.

(3) If, after consultation with the school board, the state superintendent finds that the plan has not incorporated his recommendations, or that its implementation has been inadequate to remedy the denial of equal educational opportunities, he shall request the attorney general to proceed against the school district for injunctive or other appropriate relief.

History: 1973 c. 89.

115.895 Temporary waiver. Until July 1, 1976, the state superintendent may annually waive the application to any school district of such provisions of this subchapter as he deems necessary, except that application of s. 115.88 may not be waived.

History: 1973 c. 89, 243.

SUBCHAPTER V

SPECIAL EDUCATIONAL NEEDS

115.90 Definitions. (1) In this subchapter, "pupils with special educational needs", means pupils who have or are likely to have low levels of academic achievement, especially in relation to social and economic factors.

(2) Any public school district which is determined to have pupils with special needs according to s. 115.91 may apply for funds under s. 115.92. Nonprofit, nonsectarian agencies may apply for funds under s. 115.92. Prior to accepting applications from any such agency, the state superintendent shall determine that it has adequate management and accounting capacity and such agency shall agree that its

accounts related to such programs may be audited.

History: 1973 c. 90.

115.91 Identification of pupils with special educational needs. (1) Annually the state superintendent shall establish criteria by which characteristics of social and economic factors can be measured and on which he will make grants to school districts or agencies for programs for pupils with special educational needs.

(2) Each school district or agency for which a program is approved under s. 115.92 shall select the individuals who have or are likely to have the greatest special educational needs.

History: 1973 c. 90.

115.92 Application and approval of programs to serve pupils with special educational needs. (1) Annually the state superintendent shall issue guidelines for developing and approving programs for serving pupils with special educational needs. Such guidelines shall incorporate the factors which in his judgment provide the greatest likelihood for successful programs.

(2) The school districts and other agencies eligible under s. 115.90 shall submit applications

to serve the number of pupils determined under s. 115.91. Such proposals shall demonstrate how other available funds will be incorporated into the program, that funds under s. 20.255 (1) (fd) will be directed to the pupils selected under s. 115.90 and that funds under s. 20.255 (1) (fd) will not be used to supplant or replace other funds otherwise available for these pupils.

(3) The state superintendent shall approve applications which he determines will enhance the potential for academic success of the pupils. Priority shall be given to programs for preschool and primary elementary grade children.

History: 1973 c. 90.

115.94 Local advisory program councils.

No application for funds under this subchapter shall be reviewed by the state superintendent unless the school district or other eligible applicant has established a local advisory program council consisting of parents, community representatives, school administrators and teachers to advise on the development of applications and the implementation of approved programs.

History: 1973 c. 90.